

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

US BANK N.A.

Plaintiff,

v.

LEONARD CONTIER et al.,

Defendants.

Case No. CV 15-10019-AB (GJSx)

**ORDER REMANDING CASE TO
STATE COURT**

On December 31, 2015, Defendant Emanuela Guzzon, having been sued as a tenant-Defendant in what appears to be a routine unlawful detainer action in California state court, filed a Notice of Removal of that action to this Court. (Docket No. 1.) For the reasons set forth below, the Court **REMANDS** this case for lack of subject matter jurisdiction.

As a routine unlawful detainer action, Plaintiff could not have brought this action in federal court initially because the complaint does not competently allege facts creating subject matter jurisdiction, rendering removal improper. 28 U.S.C. §1441(a); *see Exxon Mobil Corp v. Allapattah Svcs., Inc.*, 545 U.S. 546, 563 (2005).

First, under 28 U.S.C. §§ 1331, 1441(b), this unlawful detainer action does not give rise to a federal question or substantial question of federal law because unlawful detainer “is purely a creature of California law.” *Wells Fargo Bank v. Lapeen*, 2011

1 WL 2194117 (N.D. Cal. June 6, 2011). Guzzon's reliance on the Fair Debt Collection
2 Practices Act is misplaced. It appears that Guzzon invokes the FDCPA as an
3 affirmative defense, however, "it is now settled law that a case may not be removed to
4 federal court on the basis of a federal defense . . . even if the defense is anticipated in
5 the plaintiff's complaint, and even if both parties concede that the federal defense is
6 the only question truly at issue." *Caterpillar Inc. v. Williams*, 482 U.S. 386, 393
7 (1987). Guzzon also invokes admiralty and maritime law, but Plaintiff's unlawful
8 detainer action clearly does not implicate those areas of federal law. As such, this
9 action does not give rise to federal question jurisdiction.

10 Second, this unlawful detainer action does not give rise to diversity jurisdiction.
11 See 28 U.S.C. §§ 1332, 1441(b). The underlying complaint states that the amount in
12 controversy does not exceed \$10,000. Moreover, removal on the basis of diversity
13 jurisdiction is not proper because Guzzan resides in the forum state. 28 U.S.C.
14 § 1441(b).

15 Accordingly, the Court: (1) **REMANDS** this case to the Superior Court of
16 California, County of Santa Barbara, for lack of subject matter jurisdiction pursuant to
17 28 U.S.C. § 1447(c); (2) **ORDERS** the Clerk to send a certified copy of this Order to
18 the state court; and (3) **ORDERS** the Clerk to serve copies of this Order on the
19 parties.

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21 **IT IS SO ORDERED.**

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23 Dated: January 6, 2016



24 HONORABLE ANDRÉ BIROTTE JR.
25 UNITED STATES DISTRICT COURT JUDGE
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